

FILED

2015 OCT 21 PM 3:22

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

BY: _____

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
January 2015 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEFF SALES,
DANNIEL GOYENA, and
DAVID Y. KIM,

Defendants.

CR No.

CR 15 00576

I N D I C T M E N T

[18 U.S.C. § 1347: Health Care Fraud; 42 U.S.C. §§ 1320a-7b(b)(1)(A), (b)(2)(A): Illegal Remunerations for Health Care Referrals; 18 U.S.C. § 1028A(a)(1): Aggravated Identity Theft; 18 U.S.C. § 2(b): Causing an Act to be Done]

The Grand Jury charges:

COUNTS ONE THROUGH TWELVE

[18 U.S.C. §§ 1347, 2(b)]

[All Defendants]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

The Defendants

1. Defendant JOSEFF SALES ("defendant SALES") was a resident of Buena Park, California, within the Central District of California. Defendant SALES was a physical therapist ("PT") licensed to practice in California and an enrolled Medicare provider.

1 2. Defendant DANNIEL GOYENA ("defendant GOYENA") was a
2 resident of Buena Park, California, within the Central District of
3 California. Defendant GOYENA was a physical therapist assistant
4 ("PTA") licensed to practice in California.

5 3. At various times from in or about March 2008 to in or about
6 January 2014, defendants SALES and GOYENA owned and operated Rehab
7 Dynamics, Inc. ("Rehab Dynamics"), RSG Rehab, Inc. ("RSG"), and
8 Innovation Physical Therapy, Inc. ("Innovation"), California
9 corporations, which were located at various sites in Los Angeles and
10 Orange Counties, within the Central District of California.

11 4. A bank account for Rehab Dynamics was maintained at J.P.
12 Morgan Chase Bank, N.A., with account number ending in 5060 (the
13 "Rehab Dynamics Bank Account"). The bank accounts for RSG were
14 maintained at J.P. Morgan Chase Bank, N.A., with account numbers
15 ending in 5234, 2189, and 2698 (the "RSG Bank Accounts")
16 respectively. A bank account for Innovation was maintained at J.P.
17 Morgan Chase Bank, N.A., with account number ending in 9966 (the
18 "Innovation Bank Account").

19 5. Defendant DAVID Y. KIM ("defendant KIM") was a resident of
20 Los Angeles, California, within the Central District of California.
21 Defendant KIM was a licensed chiropractor, but he was not a
22 physician, PT, or PTA licensed to practice in California, and he was
23 not enrolled as a Medicare provider.

24 6. From in or about November 2011 and continuing through in or
25 about January 2014, defendant KIM owned and operated New Hope Clinic
26 ("New Hope"), a California sole proprietorship, located at various
27 locations in Los Angeles County, within the Central District of
28 California. Defendant KIM, through New Hope, received payments from

1 defendants SALES and GOYENA, through Rehab Dynamics and Innovation,
2 for referrals and for alleged physical therapy services.

3 The Medicare Program

4 7. Medicare was a federal health care benefit program,
5 affecting commerce, that provided benefits to individuals who were
6 over the age of 65 or disabled. Medicare was administered by the
7 Centers for Medicare and Medicaid Services ("CMS"), a federal agency
8 operating under the authority of the United States Department of
9 Health and Human Services ("HHS").

10 8. Individuals who qualified for Medicare benefits were
11 referred to as Medicare "beneficiaries." Each Medicare beneficiary
12 was given a Health Identification Card containing a unique
13 identification number ("HICN").

14 9. Health care providers who provided medical services that
15 were reimbursed by Medicare were referred to as Medicare "providers."

16 10. CMS contracted with private companies to certify providers
17 for participation in the Medicare program and monitor their
18 compliance with Medicare standards, to process and pay claims, and to
19 perform program safeguard functions, such as identifying and
20 reviewing suspect claims.

21 11. To obtain reimbursement from Medicare, a provider had to
22 apply for and obtain a provider number. By signing the provider
23 application, the provider agreed to (a) abide by Medicare rules and
24 regulations and (b) not submit claims to Medicare knowing they were
25 false or fraudulent or with deliberate ignorance or reckless
26 disregard of their truth or falsity.

27 12. If Medicare approved a provider's application, Medicare
28 assigned the provider a Medicare provider number, which enabled the

1 provider to submit claims to Medicare for services rendered to
2 Medicare beneficiaries.

3 13. Medicare reimbursed providers only for services, including
4 physical therapy, that were medically necessary to the treatment of a
5 beneficiary's illness or injury, were prescribed by a beneficiary's
6 physician or a qualified physician's assistant acting under the
7 supervision of a physician, and were provided in accordance with
8 Medicare regulations and guidelines that governed whether a
9 particular service or product would be reimbursed by Medicare.

10 14. Medicare required that physical therapy services be
11 performed by (a) a physician, (b) a PT, or (c) a PTA acting under the
12 direct supervision of a physician or PT. "Direct supervision" meant
13 that the doctor or PT was physically present in the same office suite
14 and immediately available to provide assistance and direction
15 throughout the time the PTA was performing physical therapy services.
16 Physical therapy services provided by aides or physical therapy
17 students were not reimbursable by Medicare, regardless of the level
18 of supervision.

19 15. Medicare did not cover acupuncture or reimburse providers
20 for acupuncture services. Medicare did not cover massages unless
21 they were therapeutic massages provided by a licensed therapist as
22 part of the beneficiary's plan of care.

23 B. THE SCHEME TO DEFRAUD

24 16. Beginning in or about March 2008, and continuing until at
25 least in or about January 2014, in Los Angeles and Orange Counties,
26 within the Central District of California, and elsewhere, defendants
27 SALES and GOYENA, and co-schemer Marlon Songco, together with others
28 known and unknown to the Grand Jury and, independently, with each of:

1 (a) defendant KIM from in or about March 2012 to in or about January
2 2014; (b) co-schemer Leovigildo Sayat from in or about March 2008 to
3 in or about May 2012; (c) co-schemer Ohun Kwon from in or about July
4 2009 to in or about July 2011; and (d) co-schemer Eddieson Legaspi
5 from in or about April 2009 to in or about December 2012, knowingly,
6 willfully, and with the intent to defraud, executed and attempted to
7 execute a scheme and artifice: (1) to defraud a health care benefit
8 program, namely, Medicare, as to material matters in connection with
9 the delivery of and payment for health care benefits, items, and
10 services; and (2) to obtain money from Medicare by means of material
11 false and fraudulent pretenses and representations and the
12 concealment of material facts in connection with the delivery of and
13 payment for health care benefits, items, and services.

14 C. THE FRAUDULENT SCHEME

15 17. The fraudulent scheme operated, in substance, in the
16 following manner:

17 a. Defendants SALES and GOYENA obtained and caused to be
18 obtained Medicare provider numbers for Rehab Dynamics, RSG, and
19 Innovation, thus enabling Rehab Dynamics, RSG, and Innovation to
20 submit claims to Medicare.

21 b. Defendants SALES and GOYENA recruited defendant KIM
22 and others at various clinics, including but not limited to New Hope,
23 Hong's Medical Management, Inc. ("Hong's Medical"), E.K. Medical
24 Management, Inc. ("E.K. Medical"), and Glory Rehab Team, Inc. ("Glory
25 Rehab"), to solicit Medicare beneficiaries to receive physical
26 therapy services.

27 c. Defendant KIM and others recruited Medicare
28 beneficiaries to their respective clinics. The Medicare

1 beneficiaries supplied their Medicare cards, HICNs, and patient
2 information to the clinics, and defendant KIM and others subsequently
3 provided this information to defendants SALES and GOYENA at Rehab
4 Dynamics, RSG, and Innovation.

5 d. Defendants SALES and GOYENA hired licensed physical
6 therapists to perform patient evaluations and re-evaluations for
7 Medicare beneficiaries at these various clinics.

8 e. As defendants SALES and GOYENA knew: (i) the licensed
9 physical therapists evaluated, re-evaluated, and created physical
10 therapy treatment plans for only some, not all, of the beneficiaries;
11 and (ii) even for those beneficiaries for whom physical therapy
12 treatment plans were created, many of the beneficiaries never
13 received any follow-up physical therapy services.

14 f. While at these various clinics, beneficiaries would
15 often receive only massage and acupuncture (services defendant SALES,
16 defendant GOYENA, defendant KIM and other co-schemers knew were not
17 covered by Medicare) from individuals not licensed to perform
18 physical therapy.

19 g. In particular, as defendant KIM knew, defendants SALES
20 and GOYENA hired licensed physical therapists to occasionally
21 supervise defendant KIM's unlicensed staff, who performed services
22 for Medicare beneficiaries at New Hope that were not reimbursable
23 under Medicare guidelines. Nevertheless, as defendant KIM knew,
24 defendants SALES and GOYENA used Accubill Medical Billing Services
25 ("Accubill") to submit claims to Medicare for reimbursement for
26 physical therapy services for these beneficiaries, despite their
27 having received other non-reimbursable services.

1 h. Defendants SALES, GOYENA, and KIM, and others,
2 provided information to Accubill, including the names, HICNs, and
3 other patient information of the Medicare beneficiaries, as well as
4 falsified records that made it appear as though the beneficiaries had
5 received physical therapy treatments from specific PTs hired by Rehab
6 Dynamics, RSG, and Innovation, knowing and intending that Accubill
7 would use this falsified information to submit false and fraudulent
8 claims to Medicare.

9 i. Defendants SALES, GOYENA, and KIM, and others,
10 submitted to Accubill the names and provider numbers of specific PTs
11 who purportedly performed the physical therapy services referenced in
12 the claims to Medicare, even though, as defendants SALES, GOYENA, and
13 KIM well knew, the PTs could not possibly have performed the physical
14 therapy services because the PTs were almost always not present at
15 the clinics where the purported services occurred.

16 j. Rehab Dynamics, RSG, and Innovation received payment
17 from Medicare for those false and fraudulent claims, and the payments
18 were deposited into the Rehab Dynamics Bank Account, the RSG Bank
19 Accounts, and the Innovation Bank Account, to which defendants SALES
20 and GOYENA had joint access and control.

21 k. Defendants SALES and GOYENA wrote checks out of the
22 Rehab Dynamics Bank Account, the RSG Bank Accounts, and the
23 Innovation Bank Account to themselves and others.

24 l. Defendants SALES and GOYENA paid kickbacks to
25 defendant KIM and others at these various clinics from the Medicare
26 payments, in exchange for the referral of these Medicare
27 beneficiaries to Rehab Dynamics, RSG, and Innovation.
28

1 m. Between in or about March 2008 and in or about January
2 2014, Rehab Dynamics, RSG, and Innovation submitted approximately
3 \$15.2 million in fraudulent and improper claims to Medicare,
4 primarily for physical therapy, and obtained payment from Medicare of
5 approximately \$7.8 million for physical therapy services purportedly
6 performed at various clinics.

7 n. Defendant KIM received approximately 55 percent of the
8 Medicare payments for the patients who purportedly received physical
9 therapy services at New Hope. These Medicare payments were deposited
10 into the Rehab Dynamics Bank Account and the Innovation Bank Account
11 by defendants SALES and GOYENA, and others on behalf of beneficiaries
12 at New Hope, as payment for the beneficiaries who defendant KIM
13 recruited to New Hope and for the submission of fraudulent and
14 improper claims to Medicare.

15 o. Specifically, between in or about March 2012 and in or
16 about January 2014, Rehab Dynamics and Innovation received
17 approximately \$690,519.03 in payments from Medicare from fraudulent
18 claims submitted to Medicare, on behalf of beneficiaries at New Hope
19 recruited by defendant KIM, which were deposited into the Rehab
20 Dynamics Bank Account and Innovation Bank Account. Defendant KIM,
21 through New Hope, received approximately \$379,785.47 from Rehab
22 Dynamics and Innovation for defendant KIM's participation in the
23 scheme, including providing the fraudulent and improper claim
24 information to defendants SALES and GOYENA, and others at Rehab
25 Dynamics and Innovation, that was submitted to Medicare.

26 D. EXECUTIONS OF THE FRAUDULENT SCHEME

27 18. On or about the dates set forth below, within the Central
28 District of California, and elsewhere, the following defendants,

1 together with others known and unknown to the Grand Jury, for the
 2 purpose of executing and attempting to execute the fraudulent scheme
 3 described above, knowingly and willfully submitted and caused to be
 4 submitted to Medicare the following false and fraudulent claims:

COUNT	DEFENDANT	APPROX. DATE ALLEGED SERVICES PERFORMED	APPROX. DATE CLAIM SUBMITTED	BENEFICIARY, PHYSICAL THERAPIST, AND SERVICE (CODE)	AMOUNT CLAIMED	CLAIM NUMBER
ONE	SALES, GOYENA	11/23/2010	12/1/2010	B.K., SALES, Therapeutic activities (97530)	\$45.00	551110335635200
TWO	SALES, GOYENA	12/5/2011	12/21/2011	A.K., SALES, Physical Therapy Evaluation (97001)	\$100.00	551111355441260
THREE	SALES, GOYENA	1/3/2012	1/19/2012	K.P., L. Sayat, Therapeutic Exercise (97110)	\$80.00	551912023188920
FOUR	SALES, GOYENA	1/3/2012	1/19/2012	H.P., L. Sayat, Therapeutic Exercise (97110)	\$80.00	551912023188910
FIVE	SALES, GOYENA	3/7/2012	3/14/2012	P.M., Legaspi, Therapeutic Procedure (97112)	\$45.00	551912074182540
SIX	SALES, GOYENA	4/26/2012	5/10/2012	J.K., Legaspi, Manual Physical Therapy (97140)	\$40.00	551812131182180
SEVEN	SALES, GOYENA, KIM	9/12/2012	9/19/2012	S.C., J.W., Therapeutic Procedure (97112)	\$90.00	551812263472200
EIGHT	SALES, GOYENA	11/12/2012	11/29/2012	A.C., M.B., Manual Physical Therapy (97140)	\$80.00	551812334592110

NINE	SALES, GOYENA, KIM	11/8/2012	12/3/2012	K.L., J.W., Therapeutic Exercise (97110)	\$80.00	551112339006220
TEN	SALES, GOYENA, KIM	3/15/2013	3/28/2013	K.K., J.W., Therapeutic Procedure (97112)	\$45.00	551813087337560
ELEVEN	SALES, GOYENA, KIM	3/20/2013	3/28/2013	K.K., J.W., Manual Physical Therapy (97140)	\$80.00	551813087337560
TWELVE	SALES, GOYENA	7/24/2013	7/30/2013	J.C., M.B., Therapeutic Exercise (97110)	\$80.00	551813211436560

COUNTS THIRTEEN THROUGH TWENTY-FIVE

[42 U.S.C. § 1320a-7b(b) (2) (A)]

19. The Grand Jury hereby repeats and realleges paragraphs 1 through 15 and paragraph 17 of this Indictment as if fully set forth herein.

20. On or about the dates set forth below, in Los Angeles and Orange Counties, within the Central District of California, and elsewhere, the following defendants, together with others known and unknown to the Grand Jury, knowingly and willfully offered and paid remuneration, namely, checks payable in the approximate amounts set forth below, to induce David Y. Kim and others to refer individuals to Rehab Dynamics, RSG, and Innovation for physical therapy-related services, for which payment could be made in whole and in part under a Federal health care program, namely, Medicare:

COUNT	DEFENDANT	APPROX. DATE	TRANSACTION
THIRTEEN	GOYENA	4/13/2011	Check number 1266, drawn on the RSG Bank Accounts, in the amount of \$5,769.11, payable to Glory Rehab
FOURTEEN	GOYENA	5/11/2011	Check number 1318, drawn on the RSG Bank Accounts, in the amount of \$2,184.25, payable to Hong's Medical
FIFTEEN	SALES	10/10/2011	Check number 1786, drawn on the Rehab Dynamics Bank Account, in the amount of \$10,119.84, payable to Hong's Medical
SIXTEEN	SALES	3/16/2012	Check number 2013, drawn on the RSG Bank Accounts, in the amount of \$4,456.46, payable to E.K. Medical
SEVENTEEN	SALES	4/23/2012	Check number 2086, drawn on the RSG Bank Accounts, in the amount of \$3,082.54, payable to E.K. Medical
EIGHTEEN	SALES	4/24/2012	Check number 2082, drawn on the RSG Bank Accounts, in the amount of \$2,975.97, payable to Glory Rehab
NINETEEN	GOYENA	12/13/2012	Check number 1706, drawn on the Innovation Bank Account, in the amount of \$2,596.69, payable to E.K. Medical
TWENTY	GOYENA	4/11/2013	Check number 1838, drawn on the Innovation Bank Account, in the amount of \$7,210.90, payable to New Hope
TWNTY-ONE	GOYENA	4/30/2013	Check number 1864, drawn on the Innovation Bank Account, in the amount of \$5,507.79, payable to E.K. Medical

1	TWENTY-TWO	GOYENA	8/13/2013	Check number 1976, drawn on the
2				Innovation Bank Account, in the amount
3	TWENTY-THREE	GOYENA	11/1/2013	of \$1,822.70, payable to E.K. Medical
4				Check number 2094, drawn on the
5	TWENTY-FOUR	SALES	11/6/2013	Innovation Bank Account, in the amount
6				of \$2,547.36, payable to E.K. Medical
7				Check number 2622, drawn on the Rehab
8	TWENTY-FIVE	SALES	11/12/2013	Dynamics Bank Account, in the amount of
9				\$2,391.60, payable to New Hope
10				Check number 2099, drawn on the
11				Innovation Bank Account, in the amount
12				of \$2,791.26, payable to E.K. Medical
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				

COUNTS TWENTY-SIX THROUGH THIRTY

[42 U.S.C. § 1320a-7b(b) (1) (A)]

21. The Grand Jury hereby repeats and realleges paragraphs 1 through 15 and paragraph 17 of this Indictment as if fully set forth herein.

22. On or about the dates set forth below, in Los Angeles County, within the Central District of California, and elsewhere, defendant KIM, together with others known and unknown to the Grand Jury, knowingly and willfully solicited and received remuneration, namely, checks payable in the approximate amounts set forth below, drawn on the Rehab Dynamics Bank Account and the Innovation Bank Account, in return for referring individuals to Rehab Dynamics and Innovation for physical therapy-related services, for which payment could be made in whole and in part under a Federal health care program, namely, Medicare:

COUNT	APPROX. DATE	TRANSACTION
TWENTY-SIX	4/11/2013	Check number 1838, drawn on the Innovation Bank Account, in the amount of \$7,210.90, payable to New Hope
TWENTY-SEVEN	5/8/2013	Check number 1873, drawn on the Innovation Bank Account, in the amount of \$4,223.25, payable to New Hope
TWENTY-EIGHT	6/15/2013	Check number 1919, drawn on the Innovation Bank Account, in the amount of \$2,500.00, payable to New Hope
TWENTY-NINE	11/6/2013	Check number 2622, drawn on the Rehab Dynamics Bank Account, in the amount of \$2,391.60, payable to New Hope
THIRTY	1/2/2014	Check number 2646, drawn on the Rehab Dynamics Bank Account, in the amount of \$2,172.06, payable to New Hope

COUNTS THIRTY-ONE THROUGH THIRTY-FOUR

[42 U.S.C. §§ 1028A(a)(1), 2(b)]

23. The Grand Jury hereby repeats and realleges paragraphs 1 through 15 and paragraph 17 of this Indictment as if fully set forth herein.

24. On or about the dates set forth below, in Los Angeles County, within the Central District of California, the following defendants, together with others known and unknown to the Grand Jury, knowingly transferred, possessed, and used, and willfully caused to be transferred, possessed, and used, without lawful authority, means of identification of other persons, namely, the names and Medicare provider numbers of the physical therapists identified below, during and in relation to felony violations of Title 18, United States Code, Section 1347, as charged in the related counts of the Indictment identified below:

COUNT	DEFENDANT	APPROX. DATE	PHYSICAL THERAPIST (PROVIDER NO.) AND SERVICE (CODE)	RELATED COUNT OF INDICTMENT
THIRTY-ONE	GOYENA	12/1/2010	SALES (xxxxxxx9936) - Therapeutic Activities (97530)	COUNT ONE
THIRTY-TWO	GOYENA	12/21/2011	SALES (xxxxxxx9936) - Physical Therapy Evaluation (97001)	COUNT TWO
THIRTY-THREE	SALES	1/19/2012	L. Sayat (xxxxxxx0573) - Therapeutic Exercise (97110)	COUNT THREE
THIRTY-FOUR	SALES	1/19/2012	L. Sayat (xxxxxxx0573) - Therapeutic Exercise (97110)	COUNT FOUR

COUNTS THIRTY-FIVE THROUGH THIRTY-SIX

[42 U.S.C. §§ 1028A(a)(1), 2(b)]

25. The Grand Jury hereby repeats and realleges paragraphs 1 through 15 and paragraph 17 of this Indictment as if fully set forth herein.

26. On or about the dates set forth below, in Los Angeles County, within the Central District of California, defendant KIM, together with others known and unknown to the Grand Jury, knowingly transferred, possessed, and used, and willfully caused to be transferred, possessed, and used, without lawful authority, means of identification of other persons, namely, the names and HICNs of the beneficiaries identified below, during and in relation to felony violations of Title 18, United States Code, Section 1347, as charged in the related counts of the Indictment identified below.

//


//

COUNT	APPROX. DATE	BENEFICIARY (HICN) AND SERVICE (CODE)	RELATED COUNT OF INDICTMENT
THIRTY-FIVE	12/3/2012	K.L. (xxxxx2506M) - Therapeutic Exercise (97110)	COUNT NINE
THIRTY-SIX	3/28/2013	K.K. (xxxxx3212A) - Therapeutic Procedure (97112)	COUNT TEN

A TRUE BILL

151
Foreperson

EILEEN M. DECKER
United States Attorney


LAWRENCE S. MIDDLETON
Assistant United States Attorney
Chief, Criminal Division

GEORGE S. CARDONA
Assistant United States Attorney
Chief, Major Frauds Section

STEPHEN A. CAZARES
Assistant United States Attorney
Deputy Chief, Major Frauds Section

BYRON J. MCLAIN
Assistant United States Attorney
Major Frauds Section